

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Criminal No. 00-CR-50054-01

vs.

HON. BERNARD A. FRIEDMAN

JAMES DWIGHT LEWIS, 28192-039,

Defendant.

/

**ORDER DENYING DEFENDANT'S MOTION TO
COMPEL GOVERNMENT TO DISCLOSE RECORDS**

and

**ORDER TRANSFERRING DEFENDANT'S "MOTION TO DISMISS SUPERCEDING
INDICTMENT FOR PROSECUTORIAL MISCONDUCT BEFORE THE GRAND JURY" TO
THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

Defendant has filed two motions in this matter. The first is entitled "motion to compel government to disclose any and all interview records of Desmond Savage and Dedrick Watkins recorded on ATF EF 31.20.02 (5-98) forms" [docket entry 307]. This motion is denied because it seeks discovery pursuant to Fed. R. Crim. P. 16, which applies to discovery in pending criminal cases. Defendant's criminal case has been closed since 2001. Defendant's second motion is entitled "motion to dismiss superceding indictment for prosecutorial misconduct before the grand jury pursuant to Federal Rules of Criminal Procedure Rule 12(f)" [docket entry 311]. This motion appears to be second or successive 28 U.S.C. § 2255 motion, as it seeks his "immediate release," Def.'s Mot. at 5, and defendant previously filed a § 2255 motion in July 2004 [docket entry 144]. A second or successive § 2255 motion "must be certified as provided in section 2244 by a panel of the appropriate court of appeals . . ." Section 2255. When, as in this case, a second or successive § 2255 motion is filed without the required certification, the district court is required to transfer the motion to the court of appeals. *See In re Hanserd*, 123 F.3d 922, 934 (6th Cir. 1997).

Accordingly,

IT IS ORDERED that defendant's "motion to compel government to disclose any and all interview records of Desmond Savage and Dedrick Watkins recorded on ATF EF 31.20.02 (5-98) forms" is denied.

IT IS FURTHER ORDERED that defendant's "motion to dismiss superceding indictment for prosecutorial misconduct before the grand jury pursuant to Federal Rules of Criminal Procedure Rule 12(f)" is hereby transferred to the United States Court of Appeals for the Sixth Circuit.

Dated: August 8, 2018
Detroit, Michigan

s/Bernard A. Friedman
BERNARD A. FRIEDMAN
SENIOR UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 8, 2018.

s/Johnetta M. Curry-Williams
Case Manager